



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,205	06/15/2001	JAY H. CONNELLY	042390P11860	8464

7590 12/27/2006  
James Y. Go  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER
----------

HUYNH, SON P

ART UNIT	PAPER NUMBER
----------	--------------

2623

MAIL DATE	DELIVERY MODE
-----------	---------------

12/27/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/882,205

Applicant(s)

CONNELLY, JAY H.

Examiner

Son P. Huynh

Art Unit

2623

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-12 and 43-49.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.



**CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues "Ellis fails to disclose refining a list of available content in a manner that prioritizes an order in which the available content will be broadcast and then broadcasting the available content as prioritized by the refining" (page 8, lines 21-23, page 9, paragraph 2).

In response, this argument is respectfully traversed. As discussed in the Final Office Action dated 10/02/2006, Ellis discloses the program guide may provide users with an opportunity to schedule programs for recording by secondary storage device or digital storage device using boolean or natural language expression. Program guide systems in which programs are scheduled for recording are described, for example, in Ellis et al. U.S. patent application serial No. 09/332,244, filed June 11, 1999, which is incorporated by reference in its entirety (col. 17, lines 53-65). U.S patent Ser. No. 09/332,244 discloses a pending selections list of available content in response to user selections of programs for recording, the pending selections lists available content prioritizes an order in which at least a portion of the available content described by the content descriptor (e.g. content descriptor/title "BEVERLY HILLS" describes the content of Beverly Hills will be broadcast at 8:00 P on 6/30/99; then content descriptor/title APOLLO 13 describes program content of APOLLO 13 will be broadcast at 8:30P on 7/1/99 and so on; and the available content listed in the pending selections will be broadcast according to the future broadcast schedule as prioritized by the pending selections list (for example, BEVERLY HILLS at 8:00 pm, APOLLO 13 at 8:30 pm and so on as described in the pending selections list - figure 18f, paragraph 0149). Therefore, Ellis discloses refining a list of available content in a manner that prioritizes an order in which the available content will be broadcast and then broadcast the available content as prioritized by the refining (interpreted as filtering/selecting to display a list of available content (for example, pending selections lists available content" in order in which available content will be broadcast such as Beverly Hill at 8:00P on 6/30/99, then APPOLLO 13 at 8:30P on 7/1/99, then so on. and then broadcast the available content in order as defined by the pending selections list (e.g. Beverly Hill at 8:00P on 6/30/99, Apollo 13 at 8:30P on 7/1/99)).

For the reasons given above, rejections of claims 1-12, 43-49 are maintained as discussed in the Final Office Action dated 10/2/2006.